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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,923	04/24/2002	Ludwig Baumgartner	MFA-14402/04	9282

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EXAMINER

WARE, DEBORAH K

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/049,923	Applicant(s) BAUMGARTNER, LUDWIG	
	Examiner Deborah K. Ware	Art Unit 1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03252004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-7 are presented for reconsideration on the merits.

The amendment of June 29, 2004, has been received and entered. The IDS filed in the case has been considered as indicated on the enclosed PTO-1449 Form(s). Applicant's arguments filed June 29, 2004, have been fully considered but they are not persuasive. The newly supplied art reference supplied after the first office action appears to read on the steps for dehydrating a tissue as claimed herein and thus, is a newly supplied reference submitted by Applicants. Therefore, based upon Applicants' arguments and newly supplied reference after first office action a new grounds of rejection have been necessitated as follows:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-7 lack antecedent basis for the recitation of "the range" in claim 1, line 3. It is suggested to change "the" before range" to --a-- .

Claim Rejections - 35 USC § 102

Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as anticipated by newly cited Morita et al., cited on enclosed PTO-1449 Form.

Art Unit: 1651

Claims are drawn to a method for dehydrating biological tissues.

Morita et al teach a method for dehydrating tissue comprising dehydrating using ethanol and freezing. Note column 2, lines 5-12 and lines 40-69, column 3, lines 1-2, lines 10-51, column 4, lines 25-30.

The claims appear to be identical to the cited disclosure and are thus, considered to be anticipated by the teachings of the reference.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over newly cited Morita et al (cited on enclosed PTO-1449 copy) as cited above in view of Druecke et al. (US Pat No. 6187137).

Claim 6 is drawn to a treatment with ultrasound, a vibrator or a shaker.

Druecke et al teach a variety of useful techniques for dehydrating, such as treatment with sonic roll, shaker roll, or vibrator roll, note col. 3, lines 38-51.

The claim differs from Morita et al in that the treatment step using these mechanical means is not disclosed.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to select for a mechanical means for dehydrating as disclosed by Morita et al. one of the useful techniques for dehydrating, such as treatment with sonic roll, shaker roll, or vibrator roll as disclosed by Druecke. Clearly one of skill would have known of these dehydration means and to select for one of these is well within the purview of a person of ordinary skill in the art. The claim is prima facie obvious.

All claims fail to be patentably distinguishable over the state of the art discussed above and cited on the enclosed PTO-892 and/or PTO-1449. Therefore, the claims are properly rejected.

No claims are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

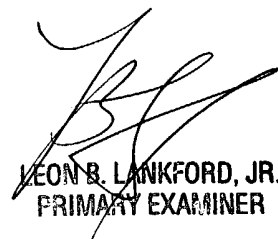
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah K. Ware whose telephone number is 571-272-0924. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Deborah K. Ware
September 18, 2004



LEON B. LANKFORD, JR.
PRIMARY EXAMINER